

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

SUSAN HUITT,

3:14-CV-01064-BR

Plaintiff,

OPINION AND ORDER

v.

OPTUM HEALTH SERVICES, a
wholly-owned subsidiary of
UNITED HEALTH GROUP, INC.,

Defendant.

SUSAN HUITT

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Plaintiff, *Pro Se*

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BROWN, Judge.

This matter comes before the Court on Plaintiff Susan Huitt's Motion (#115) for Leave to Proceed *In Forma Pauperis* on appeal. For the reasons that follow, the Court **GRANTS** Plaintiff's Motion.

BACKGROUND

On June 2, 2014, Plaintiff filed a *pro se* complaint in Multnomah County Circuit Court asserting claims for disability discrimination in violation of Oregon Revised Statute § 659A.112, whistleblower retaliation in violation of Oregon Revised Statutes §§ 659A.199 and 659A.230, and wrongful termination.

On July 2, 2014, Defendant Optum Health Services removed the matter to this Court on the basis of diversity and federal-question jurisdiction.

On August 8, 2016, Defendant filed a Motion for Summary Judgment. The Court took Defendant's Motion under advisement on October 6, 2016.

On November 1, 2016, the Court issued an Opinion and Order in which it granted Defendant's Motion for Summary Judgment and dismissed this matter with prejudice.

On November 1, 2016, the Court entered a Judgment dismissing this matter with prejudice.

On November 30, 2016, Plaintiff filed a Notice of Appeal to

the Ninth Circuit and a Motion for Leave to Proceed *In Forma Pauperis* on appeal.

DISCUSSION

"An appeal may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(c). "'An appeal is frivolous if the results are obvious, or the arguments of error are wholly without merit.'" *Kwasniewski v. Sanofi-Aventis U.S., LLC*, 637 F. App'x 405, 407 (9th Cir. 2016)(citing *Maisano v. United States*, 908 F.2d 408, 411 (9th Cir. 1990)).

Although the Court granted Defendant's Motion for Summary Judgment as to all of Plaintiff's claims, the Court notes several of Plaintiff's claims involved a close examination of the facts and/or evolving questions of preemption. The Court, therefore, concludes Plaintiff's claims and arguments were not wholly without merit nor was the result of Defendant's Motion for Summary Judgment obvious. Accordingly, the Court **GRANTS** Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* on appeal.

CONCLUSION

For these reasons, the Court **GRANTS** Plaintiff's Motion

(#115) for Leave to Proceed *In Forma Pauperis* on appeal.

IT IS SO ORDERED.

DATED this 5th day of December, 2016.

/s/ Anna J. Brown

ANNA J. BROWN
United States District Judge